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Reply to Philadelphia Office

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September 11, 2014

By Email to ALCarterNYSDCchambers@nysd.uscourts.gov
and judgments@nysd.uscourts.govThe Honorable Andrew L. Carter, Jr.
United States District Court
Southern District of New York
40 Foley Square, Room 435
New York, NY 10007Re: *Varela v. Barnum Financial Group et al*
13 Civ. 3332 (ALC)

Dear Judge Carter,

I represent the Plaintiff. The Court recently denied Defendants' Motion to Dismiss and ordered Plaintiff to file a Second Amended Complaint by September 10, 2014. On behalf of the Plaintiff I filed a Second Amended Complaint on September 10, 2014. On September 11, 2014, I received an email from the Clerk informing me that the filing was deficient because it was filed using an incorrect ECF designation. The Clerk informed me that I must now seek further leave of Court or written consent of opposing counsel in order to refile the Second Amended Complaint because the Court's September 10, 2014 deadline has now passed.

Accordingly I request that the Court grant Plaintiff leave to refile the Second Amended Complaint, which I am prepared to refile today. The individual Defendants have consented (please see the attached email exchange); Defendant Barnum has not responded to my request.

I thank the Court for considering this request.

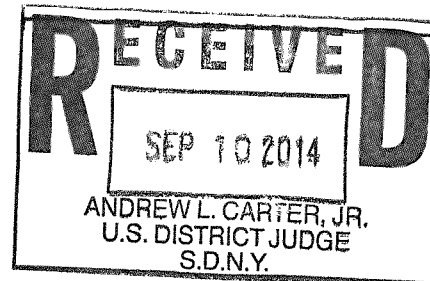
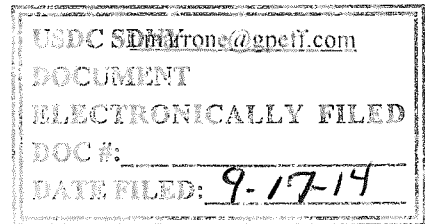
The application is ☒ granted.
☐ denied.

Andrew L. Carter Jr, U.S.D.J.

Dated: September 17, 2014
NY, New York

Respectfully,

Thomas More Marrone



The Honorable Andrew L. Carter, Jr.
September 11, 2014
Page 2

TMM/sg

Enclosure

cc by email with enclosure: Christopher Matthew Pisacane, Esquire
Matthew Paul Mazzola, Esquire
Michael H. Bernstein, Esquire

Samantha Griggs

From: NYSD_ECF_Pool@nysd.uscourts.gov
Sent: Thursday, September 11, 2014 10:33 AM
To: CourtMail@nysd.uscourts.gov
Subject: Activity in Case 1:13-cv-03332-ALC Varela v. Barnum Financial Group et al Notice to Attorney Regarding Deficient Pleading

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

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U.S. District Court

Southern District of New York

Notice of Electronic Filing

The following transaction was entered on 9/11/2014 at 10:33 AM EDT and filed on 9/11/2014

Case Name: Varela v. Barnum Financial Group et al

Case Number: 1:13-cv-03332-ALC

Filer:

Document Number: No document attached

Docket Text:

*****NOTICE TO ATTORNEY REGARDING DEFICIENT AMENDED COMPLAINT.** Notice to Attorney Thomas More Marrone RE: Document No. [40] Amended Complaint,. The filing is deficient for the following reason(s): the wrong party was selected for FILED AGAINST Re-file the document and select the correct party you are filing against. All defendants must be listed separately on the docket entry. Do not choose "all defendants". Also note that the time for leave to file is now expired. New leave is needed from the court or written consent from opposing counsel. (jom)

1:13-cv-03332-ALC Notice has been electronically mailed to:

Michael H Bernstein michael.bernstein@sdma.com

Matthew Paul Mazzola matthew.mazzola@sdma.com

Christopher Matthew Pisacane cpisacane@srff.com

Thomas More Marrone t.marrone@gpeff.com, c.mueller@gpeff.com, s.griggs@gpeff.com

1:13-cv-03332-ALC Notice has been delivered by other means to:

Thomas More Marrone

From: Christopher Pisacane <cpisacane@srff.com>
Sent: Thursday, September 11, 2014 11:06 AM
To: Thomas More Marrone
Subject: RE: Activity in Case 1:13-cv-03332-ALC Varela v. Barnum Financial Group et al Notice to Attorney Regarding Deficient Pleading

Tom,

I consent.

Chris

From: Thomas More Marrone [<mailto:t.marrone@gpeff.com>]
Sent: Thursday, September 11, 2014 10:58 AM
To: Christopher Pisacane; Mazzola, Matthew (Matthew.Mazzola@sedgwicklaw.com)
Subject: FW: Activity in Case 1:13-cv-03332-ALC Varela v. Barnum Financial Group et al Notice to Attorney Regarding Deficient Pleading

Fellows, please see below. Do I have your consent to re-file the amended complaint by tomorrow to cure this administrative filing error?

Please reply by email and if I receive your consent I will file it with the Court.

Many thanks and sorry for the trouble.

Regards,
Tom

Thomas More Marrone, Esquire
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